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January 3, 2018

The Honorable Geoffrey W. Crawford
United States District Court for the District of Vermont
P.O. Box 607
Rutland, VT 05702-0607

RE: Bloom v. Hargan, Case No. 16-cv-121 (Crawford, J.)
Requested Letter Regarding Other Continuous Glucose Monitoring Cases

Dear Judge Crawford:

During the hearing held on December 19, 2017, in the above referenced matter, the Court requested a letter identifying other District Court cases known to me involving continuous glucose monitors. The following is a listing of those cases as well as brief status information on each for the Court's convenience. I apologize for the delay in providing this information.

1. Whitcomb v. Hargan, No. 17-CV-14 (E.D., Wis. Oct. 26, 2017). The Secretary did not file an appeal of the District Court decision finding that the Secretary's denial of Ms. Whitcomb's CGM (a Medtronic MiniMed) was not supported by substantial evidence and was arbitrary and capricious in view of the Secretary's coverage of other medical devices and the Secretary's coverage of CGM for other Medicare beneficiaries. The decision is now final. This case was a continuation of *Whitcomb v. Burwell* (E.D. Wis. May 26, 2016).
2. Finigan v. Burwell, No. 15-12246-WGY (MA May 19, 2016). The District Court remanded the matter back to the Medicare Appeals Council for a determination that did not rely on the Article that asserted a CGM was precautionary. The Council remanded it back to the Administrative Law Judge who rendered a second favorable decision which was appealed by the Medicare Advantage Plan on March 21, 2017. The matter remains pending at the Council, but CMS advised the Medicare Advantage Plan that it must cover Ms. Finigan's CGM until the Council renders a decision. Ms. Finigan is seeking coverage of a Medtronic MiniMed.
3. Bookshester v. Price, No. 16-cv-09529 (N. D. IL April 20, 2017). The Court dismissed the complaint for failure to meet the amount in controversy.
4. Lewis v. Price, No. 15-13530-NMG (MA Aug. 8, 2017). Although the complaint involved a request for coverage of claims before January 2017, the Court dismissed

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the complaint on the basis that the Medicare beneficiary had switched from a Medtronic MiniMed continuous glucose monitor to a Dexcom G5 in 2017. A Motion to Reconsider was filed and is pending.

5. Lazaro v. Wright, No. 17-CV-02852 (N.D. IL, filed April 17, 2017). On February 8, 2017, the Council denied coverage of Mr. Lazaro's CGM. The Council declined to follow the first Whitcomb District Court ruling on the basis that the Medicare beneficiary lived in a different federal jurisdiction. Mr. Lazaro filed suit thereafter. The Secretary moved to dismiss based on failure to meet the amount in controversy. The matter is pending.

Please let me know if I can provide any other information to assist the Court.

Sincerely,



Debra Parrish

Cc: Melissa Ranaldo, AUSA

Craig Nolan

Dr. Bloom